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OFFICE OF PETITIONS

In re Application of
Barry Freel et al.
Application No. 09/955,267
Filed: September 18, 2001
Attorney Docket No. 18153.4003

: DECISION DISMISSING PETITION
: UNDER 37 CFR 1.313(a)

This is a decision on the petition under 37 CFR 1.313(a), filed April 17, 2007, requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on January 22, 2007, with the issue fee being due on or before April 23, 2007. While the office received Part B of the Fee(s) Transmittal form, no deposit account No. was given for charging the issue and publication fees. Therefore, the issue and publication fees have not been paid in this case.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note MPEP §§ 706.07(h)(IX) and 1308.*

Inquiries concerning this decision may be directed to Terri Williams at (571) 272-2991.

The matter is being referred to Technology Center AU 1764 for appropriate processing of the RCE filed April 17, 2007, and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions